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OFFICE OF PETITIONS

In re Application of	:
Darren Schmidt, et al.	: PETITION DISMISSING PETITION
Application No. 09/894,497	: UNDER 37 CFR 1.183 TO WAIVE
Filed: June 28, 2001	: THE PROVISIONS OF 37 CFR 1.67(a)
Attorney Docket No. 5150-52200	:

This is in response to the petition under 37 CFR 1.47(a), filed January 10, 2005, which, for the reasons stated below, is being treated as a petition under 37 CFR 1.183 to waive the provisions of 37 CFR 1.67(a) for a declaration executed by all the inventors.

The petition is **DISMISSED AS MOOT**.

The oath or declaration originally filed with the application, which was signed by Ram Rajagopal, listed his citizenship as "USA." Mr. Rajagopal crossed out "USA" and handwritten "Brazil" as the citizenship, but failed to initial the correction. In view thereof, the Notice of Allowability mailed October 8, 2004 required submission of a substitute oath or declaration executed by Ram Rajagopal.

The instant petition under 37 CFR 1.47(a) requests the Office accept the submission of a supplemental declaration by less than all the inventors, since petitioner cannot obtain the signature of Mr. Rajagopal.

MPEP § 603, provides that, "[w]hen an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, it is possible that the requirement may be suspended or waived in accordance with 37 CFR 1.183." Therefore, the submission of a petition under 37 CFR 1.47(a) is not the appropriate avenue of relief in this instance. Accordingly, the petition has been treated as a petition under 37 CFR 1.183 to waive the provisions of 37 CFR 1.67(a) for a supplemental declaration executed by all the named inventors.

The application file is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3223.

A handwritten signature in cursive script, appearing to read "Marianne E. Jenkins".

Marianne E. Jenkins

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner
for Patent Examination Policy